

Message Text

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FOR ASST SECRETARY ENDERS

FOL REPEAT OTTAWA 4335 SENT ACTION SECSTATE

INFO TORONTO WINNIPEG NOV 19

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UNCLAS OTTAWA 4335

E.O. 11652: N/A

TAGS: EMIN, EINV, CA

SUBJECT: SASKATCHEWAN POTASH NATIONALIZATION LEGISLATION

1. NOVEMBER 19 TORONTO GLOBE AND MAIL CARRIES REGINA DATELINE REPORT THAT SASKATCHEWAN GOVERNMENT HAS FORMALLY INTRODUCED LEGISLATION ALLOWING IT TO TAKE OVER ANY POTASH MINE "THROUGH NEGOTIATION OR BY OUTRIGHT EXPROPRIATION". SASKATCHEWAN ATTORNEY-GENERAL ROMANOW IS QUOTED AS SAYING THE GOVERNMENT HOPES IT "WILL BE ABLE TO BUY INTO THE INDUSTRY WITHOUT HAVING TO EXPROPRIATE", BUT FAILING A NEGOTIATED SALE, THE SIGNING BY THE CABINET OF A VESTING ORDER" WOULD RESULT IN THE IMMEDIATE TRANSFER OF A MINE TO THE CROWN POTASH CORP. OF SASKATCHEWAN.

2. ROMANOW SAID THE LEGISLATION PROVIDES FOR FAIR MARKET

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VALUE OF ASSETS AT THE TIME OF EXPROPRIATION. OTHER PROVISIONS

OF THE BILL, ACCORDING TO GLOBE AND MAIL ARTICLE, ENABLE THE PROVINCE TO:

A. GAIN CLEAR TITLE THROUGH AN EXPROPRIATION ORDER.

B. SET UP A VOLUNTARY OR COMPULSORY ARBITRATION COMMITTEE FOR MINE VALUATION CONSISTING OF ONE NOMINEE FOR THE COMPANY AND ONE FOR THE CROWN CORPORATION, WITH AN AGREED CHAIRMAN OR ONE CHOSEN BY THE CHIEF JUSTICE OF THE SASKATCHEWAN COURT OF QUEEN'S BENCH FROM THE COURTS' MEMBERS.

C. VALUE ASSETS ON A BASIS THAT WILL NOT TAKE INTO ACCOUNT THE FEDERAL GOVERNMENT'S MOVEMENT INTO THE RESOURCE TAXATION FIELD LAST MAY, WHICH SIGNIFICANTLY REDUCED COMPANY VALUES BY REFUSING TO ALLOW PROVINCIAL ROYALTIES AS FEDERAL INCOME TAX DEDUCTIONS.

D. ALLOW THE COMMITTEE TO SET THE PRICE THAT WILL BE PAID BY THE GOVERNMENT WITHIN 90 DAYS, WITH PAYMENT TO CONSIST OF EITHER REFINED POTASH OR A MINIMUM 30 PERCENT CASH, WITH THE BALANCE IN NEGOTIABLE BONDS AT A PRIME RATE SET BY THE ROYAL BANK OF CANADA DURING A 10-YEAR PAYMENT PERIOD.

E. TREAT SECURED CREDITORS OF THE POTASH MINES WITH SIMILAR COMPENSATION ARRANGEMENTS.

F. ENTER THE PROPERTY OF ANY FIRM AND EXAMINE FINANCIAL RECORDS, PROPERTY AND OTHER ASSETS OF A FIRM BEING CONSIDERED FOR PURCHASE OR EXPROPRIATION.

3. REGARDING OTTAWA REACTION, ROMANOW SAID HE DID NOT BELIEVE THAT UNDER SECTION 125 OF THE BRITISH NORTH AMERICAN ACT THE FEDERAL GOVERNMENT COULD COLLECT INCOME TAX FROM THE PROVINCIAL CROWN CORPORATION.

4. ROMANOW ALSO REPORTEDLY INDICATED THAT THE GOVERNMENT BELIEVES THE USG "WILL NOT BE HOSTILE" TO THE PROPOSED NATIONALIZATION. HE SAID IT WAS HIS
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"PRELIMINARY READING" WHAT THE U.S. WILL ACCEPT THE PROVINCE'S COMPENSATION ARRANGEMENTS. HE ADDED THAT THE U.S. STATE DEPARTMENT HAS RULES CONCERNING THE TAKEOVER OF U.S. FIRMS BY FOREIGN COUNTRIES AND "IT BOILS DOWN TO WHETHER FAIR MARKET VALUE" IS PAID.
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